

Office of Chief Counsel  
Internal Revenue Service

memorandum

CC: [REDACTED]: [REDACTED]: [REDACTED]: TL-N-7511-00  
[REDACTED]

date: JAN 12 2001

to: Chief, Examination Division, [REDACTED] District  
Attention: [REDACTED]  
[REDACTED]

[REDACTED], Group Manager, Employment Tax  
[REDACTED], Employment Tax Specialist  
[REDACTED]

from: [REDACTED], Associate Area Counsel, LMSB  
[REDACTED], Attorney [REDACTED]  
[REDACTED], Attorney [REDACTED]

subject: Taxpayers:

- (1) [REDACTED] (EIN [REDACTED])
- (2) [REDACTED] (EIN [REDACTED])
- (3) [REDACTED] (EIN [REDACTED])
- (4) [REDACTED] (EIN [REDACTED])
- (5) [REDACTED] (EIN [REDACTED])
- (6) [REDACTED] (EIN [REDACTED])
- (7) [REDACTED] (EIN [REDACTED])
- (8) [REDACTED] (EIN [REDACTED])
- (9) [REDACTED] (EIN [REDACTED])

Issue: Executing Forms SS-10 for [REDACTED]  
Statute of Limitations: [REDACTED]

THIS ADVICE CONSTITUTES RETURN INFORMATION SUBJECT TO I.R.C. § 6103.  
THIS ADVICE CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO ATTORNEY-  
CLIENT AND DELIBERATIVE PROCESS PRIVILEGES AND IF PREPARED IN  
CONTEMPLATION OF LITIGATION, SUBJECT TO THE ATTORNEY WORK PRODUCT  
PRIVILEGE. ACCORDINGLY, THE EXAMINATION OR APPEALS RECIPIENT OF THIS  
DOCUMENT MAY PROVIDE IT ONLY TO THOSE PERSONS WHOSE OFFICIAL TAX  
ADMINISTRATION DUTIES WITH RESPECT TO THIS CASE REQUIRE SUCH  
DISCLOSURE. IN NO EVENT MAY THIS DOCUMENT BE PROVIDED TO EXAMINATION,  
APPEALS, OR OTHER PERSONS BEYOND THOSE SPECIFICALLY INDICATED IN THIS  
STATEMENT. THIS ADVICE MAY NOT BE DISCLOSED TO TAXPAYERS OR THEIR  
REPRESENTATIVES.

THIS ADVICE IS NOT BINDING ON EXAMINATION OR APPEALS AND IS NOT A FINAL CASE DETERMINATION. SUCH ADVICE IS ADVISORY AND DOES NOT RESOLVE SERVICE POSITION ON AN ISSUE OR PROVIDE THE BASIS FOR CLOSING A CASE. THE DETERMINATION OF THE SERVICE IN THE CASE IS TO BE MADE THROUGH THE EXERCISE OF THE INDEPENDENT JUDGMENT OF THE OFFICE WITH JURISDICTION OVER THE CASE.

You have requested our advice on securing Forms SS-10, "Consent to Extend the Time to Assess Employment Taxes," for the [REDACTED] year with respect to the foregoing nine taxpayers.

This advice is being forwarded to the National Office for post review.

#### ISSUE

For each of the foregoing taxpayers, how should the entity's name be captioned on the Form SS-10?

#### CONCLUSION

In rendering this memorandum, we have relied primarily on your representation that the foregoing entities currently exist and were not the subject of any changes (i.e. reorganizations, name changes, or sales), and on the ENMOD/INOLES transcripts you provided to us, dated January 3, 2001.

Given the imminent expiration of the statute of limitations, we conducted a quick research on LEXIS and the official web-sites of the various state secretary's offices (where available and not requiring a fee) in our efforts to confirm the corporate status of these entities and their current names.

Based on our current information, we recommend you obtain Forms SS-10 captioned as follows:<sup>1</sup>

---

<sup>1</sup> Because there is no doubt that the current statute of limitations for the assessment of employment taxes for tax year [REDACTED] is open until January 31, there is no need to secure Forms 4016, "Consent Fixing Period of Limitation Upon Assessment of Employment or Miscellaneous Excise Taxes Against a Transferee," for the [REDACTED] year as long as the Forms SS-10 are executed prior to [REDACTED].

1. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

2. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

3. [REDACTED]:

In the abundance of caution, we recommend you obtain two  
Forms SS-10, captioned as follows:

i. [REDACTED] (EIN [REDACTED]); and

ii. [REDACTED] (EIN [REDACTED]) (also known as  
[REDACTED]).

4. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

5. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

6. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

7. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

8. [REDACTED]:

The Form SS-10 should be captioned as: "[REDACTED]  
[REDACTED] (EIN [REDACTED])."

9. [REDACTED]:

In an abundance of caution, we recommend you obtain three

Forms SS-10, captioned as follows:

- i. [REDACTED] (EIN [REDACTED]) (formerly known as [REDACTED] and/or [REDACTED]), as successor in interest to [REDACTED] (EIN [REDACTED]).
- ii. [REDACTED] (EIN [REDACTED]) (formerly known as [REDACTED] and/or [REDACTED]), as successor in interest to [REDACTED] (EIN [REDACTED]).
- iii. [REDACTED] (EIN [REDACTED]) (formerly known as [REDACTED] and/or [REDACTED]), as successor in interest to [REDACTED] (EIN [REDACTED]).

The Forms SS-10 may be signed by a duly authorized officer of the respective entity, or an agent or attorney of such entity who is specifically authorized to execute the form by a power of attorney. Please double check all EINs and current addresses.

#### FACTS

We know the following with respect to each of the foregoing entities.

1. [REDACTED]

According to the organizational charts (that you provided to us previously), [REDACTED] is a Delaware corporation. Unfortunately, Delaware corporate records are not available on LEXIS, and retrieving information from the Delaware Secretary of State's office requires a fee.

Thus, our advice is based upon the ENMOD transcript for this entity, attached hereto as Exhibit A.

2. [REDACTED]

According to LEXIS, [REDACTED] is an active Oklahoma corporation. Because retrieving information from Oklahoma Secretary of State's office requires a fee, our advice is based upon the LEXIS record and ENMOD transcript, attached hereto as Exhibits B and C, respectively.

3. [REDACTED]

According to LEXIS, see Exhibit D, [REDACTED] is an active Oregon corporation. We spoke with a

representative from the Oregon Secretary of State's office who confirmed this fact.

An ENMOD transcript for this EIN, attached hereto as Exhibit E, shows the "primary-name" as "[REDACTED]" and the "sort-name" as "[REDACTED]."

Thus, in an abundance of caution, we recommend you obtain two Forms SS-10 in the names of [REDACTED] and [REDACTED].

4. [REDACTED]

LEXIS and the Washington Secretary of State's web-site contain conflicting results as to whether [REDACTED] is an active Washington corporation. See documents attached hereto as Exhibit F.

However, we spoke with a representative of the Washington Secretary of State's office, who confirmed that this entity is an active Washington corporation.

An ENMOD transcript for this EIN is attached hereto as Exhibit G.

5. [REDACTED]

[REDACTED] was an Oregon corporation wholly owned by [REDACTED] ("[REDACTED]")<sup>2</sup>, a Delaware corporation. On [REDACTED], [REDACTED], acting as the sole shareholder of [REDACTED], executed a written consent to dissolve [REDACTED] and adopted the following corporate resolutions:

RESOLVED FURTHER, that the directors and officers of Corporation are authorized and directed to take all appropriate measures to wind up and dissolve Corporation, including, without limitation, collecting its assets, discharging its liabilities and distributing its remaining assets, if any, to the sole shareholder.

RESOLVED FURTHER, that, upon commencement of

---

<sup>2</sup> In [REDACTED], [REDACTED] merged into an Indiana Corporation named [REDACTED], which in turn became a wholly-owned subsidiary of [REDACTED], a Delaware corporation formerly known as [REDACTED].

proceedings to wind up Corporation, Corporation's officers are further authorized and directed to make, execute, and deliver or file such other documents, instruments, certificates, applications, or payment, in the name of or on behalf of Corporation, as the officers, in their discretion, may deem necessary, advisable, or appropriate to effect the full and final dissolution of Corporation and the winding up of its affairs, including, but not limited to, the filing of Articles of Dissolution in accordance with the provisions of Section 60.631 of the Oregon Revised Statutes.

On [REDACTED], [REDACTED] filed an Articles of Dissolution with the Oregon Secretary of State resulting in its dissolution pursuant to Or. Rev. Stat. § 60.631 (1999).

The Articles of Dissolution and the Unanimous Written Consent of Shareholder are attached hereto as Exhibit H.

A LEXIS record, attached hereto as Exhibit I, shows the corporate status as "inactive."

6. [REDACTED]

According to LEXIS, see Exhibit J, [REDACTED] is an existing Nevada corporation in good standing. See also ENMOD transcript, attached hereto as Exhibit K.

7. [REDACTED]

According to LEXIS and the Arizona Secretary of State's website, see Exhibit L, [REDACTED] is an existing [REDACTED] corporation in good standing. See also ENMOD transcript, attached hereto as Exhibit M.

8. [REDACTED]

According to LEXIS and the Indiana Secretary of State's website, see Exhibit N, [REDACTED] is an existing Indiana corporation in good standing. See also ENMOD transcript, attached hereto as Exhibit O.

9. [REDACTED]

On [REDACTED], [REDACTED] was merged "with and into" [REDACTED], a California corporation, pursuant to a "Merger Agreement," whereby [REDACTED] became the surviving corporation and the separate corporate existence of

[REDACTED] ceased.

There are conflicting facts as to the current name of [REDACTED].

An ENMOD transcript, attached hereto as Exhibit P, indicates that [REDACTED] subsequently changed its name to [REDACTED], with a current mailing address in [REDACTED].

Both the California Secretary of State's official web-site and LEXIS have records for "[REDACTED]," see Exhibit Q. The California Secretary of State has no record of "[REDACTED]," while LEXIS shows that it was the former name of "[REDACTED]".<sup>3</sup>

In an abundance of caution, we recommend you obtain three Forms SS-10 captioned in the names of [REDACTED], [REDACTED], and [REDACTED], as previously stated.

#### DISCUSSION

Except for [REDACTED] and [REDACTED], the information available to us indicates that the entities are currently active corporations, in which case, each of the entities may execute a Form SS-10 on its own behalf.

With respect to [REDACTED], because it is an Oregon corporation, we look to the Oregon state law to determine who has the proper authority to execute a Form SS-10.

Under Oregon law, a dissolved corporation may continue its corporate existence for the purpose of winding up its business and affairs. Or. Rev. Stat. § 60.637(1)(1999). In this regard, a dissolved corporation may (1) act to discharge or make provisions for discharging its liabilities, and (2) do every other act necessary to wind up and liquidate its business and affairs. See Or. Rev. Stat. § 60.637(1)(c)&(e)(1999). Dissolution of a corporation does not subject its directors or officers to standards of conduct different from those prescribed under the law. Or. Rev. Stat. § 60.637(2)(c)(1999). Nor does it prevent commencement of a claim against the corporation in its corporate name. Or. Rev. Stat. § 60.637(2)(c)(e)(1999). Generally, a valid claim against a dissolved corporation may be enforced against the shareholder of the dissolved corporation if

---

<sup>3</sup> LEXIS records also show that "[REDACTED]" and "[REDACTED]" are DBA names for each other.

the assets have been distributed in liquidation. Or. Rev. Stat. § 60.645(2) (1999).

It appears that there is not a specific period during which a dissolved Oregon corporation must wind up its affairs. Thus, the winding-up period of [REDACTED] has not lapsed. Since settlement of a corporation's tax liabilities is an integral part of the winding up process, [REDACTED] can continue to have a Form SS-10 executed on its behalf to extend the time on assessment of employment tax.

With respect to [REDACTED], we rendered advice on securing a Form SS-10 for years prior to [REDACTED]. In rendering that advice, we relied on the ENMOD transcript which showed "[REDACTED]" as the primary name and "[REDACTED]" as a former name and were unaware of the conflicting information as to the current name of [REDACTED]. However, in light of the information from the California Secretary of State's website, we recommend that you obtain three Forms SS-10 as noted herein.

If you have any questions, please contact [REDACTED] at [REDACTED] or [REDACTED] at [REDACTED].

Exhibits:

- A: ENMOD transcript for [REDACTED]
- B: LEXIS record for [REDACTED]
- C: ENMOD transcript for [REDACTED]
- D: LEXIS record for [REDACTED]
- E: ENMOD transcript for [REDACTED]
- F: LEXIS and Washington Secretary of State's records for [REDACTED]
- G: ENMOD transcript for [REDACTED]
- H: The Articles of Dissolution and the Unanimous Written Consent of Shareholder for [REDACTED]
- I: LEXIS record for [REDACTED]
- J: LEXIS record for [REDACTED]
- K: ENMOD transcript for [REDACTED]
- L: LEXIS and Arizona Secretary of State's records for [REDACTED]
- M: ENMOD transcript for [REDACTED]
- N: LEXIS and Indiana Secretary of State's records for [REDACTED]
- O: ENMOD transcript for [REDACTED]
- P: ENMOD transcript for [REDACTED]
- Q: LEXIS and California Secretary of State's records for [REDACTED]